

**BOBBY L. BURNS,
D/B/A BURCO SYSTEMS DEVELOPMENT,**

Appellant

Representing the Appellant:

Bobby L. Burns, pro se
President
BURCO Systems Development
P.O. Box 425
Hurst, Texas 76065

Representing the Government:

David M. Stauss
Office of the General Counsel
U. S. Department of Agriculture
101 South Main Street, Suite 351
Temple, Texas 76501-7686

AGBCA No. 95-102-R

RULING ON APPELLANT’S MOTION FOR RECONSIDERATION

August 31, 1995

OPINION BY ADMINISTRATIVE JUDGE SEAN DOHERTY

Appellant moves for reconsideration of Bobby L. Burns, D/B/A Burco Systems Development, AGBCA No. 94-143-1, 94-3 BCA ¶ 27,175. In that case Appellant asserted a failure of a Contracting Officer (CO) to issue a timely decision on Appellant’s claim. Subsequently a CO’s decision was issued, appealed from, and docketed by this Board as AGBCA No. 94-170-1.

The Board dismissed the first appeal essentially as a procedural matter as both appeals involved a single dispute. Appellant had objected to dismissal, questioning the responsiveness of the CO's decision and asserting the right to recover attorney fees should he prevail. The Board concluded Appellant could contest the CO's decision in its AGBCA No. 94-170-1

appeal, and if Appellant prevailed, seek compensation under the Equal Access to Justice Act (EAJA) 5 U.S.C § 504.

Appellant now argues he is entitled to an order directing the CO to issue a decision and that the Board's ruling, Bobby L. Burns, *supra*, is tantamount to stating the Government prevailed in its position.

There could be no purpose served by directing the issuance of a decision that has been issued, appealed from, and currently is under consideration by this Board. The procedural ruling carries with it no presumption as to the position of either party relative to the substance of the dispute yet to be decided by this Board.

Appellant has shown no factual or legal error which would require the Board to change its decision. Tom Kime, PSBCA No. 3480, 95-2 BCA ¶ 27,673. Moreover, the arguments are a repetition of arguments raised by Appellant in the initial decision and as such are not grounds for reconsideration. Schmalz Construction Ltd., AGBCA No. 94-122-R, 94-3 BCA ¶ 27,019.

RULING

We deny the request for reconsideration of the Board's decision of August 23, 1994.

SEAN DOHERTY
Administrative Judge

Concurring:

EDWARD HOURY
Administrative Judge

MARILYNN M. EATON
Administrative Judge

Issued at Washington, D.C.

August 31, 1995